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LS 6-0232a

OGC Has Reviewed

16 February 1956

MEMORANDUM FOR: Special Support Assistant to DD/S

SUBJECT: Acceptance of Gifts by Employees

1. A memorandum from the Chief, SR Division, dated 23 January 1956 and directed to the DD/S through your office makes certain recommendations in regard to the case of [REDACTED] an employee of the Agency, who purchased gifts for agents to present to other Agency employees. It also makes particular recommendations in regard to liberalization of present Agency regulations prohibiting the receipt of gifts by Agency employees from persons having some relationship to the Agency. Paragraph 5 of the SR Division memorandum makes two recommendations in regard to [REDACTED] and four recommendations in regard to Agency policy in the matter of acceptance of gifts by Agency employees. We will not comment on the recommendations in [REDACTED] case other than to say that any action to be taken is for administrative determination.

2. The Chief, SR Division has made four recommendations involving proposed changes in [REDACTED] Those recommendations and our comments on them are as follows:

"(1) The policy statement in para A be broadened to prohibit gifts from one Agency employee to another where the donee is the superior of the donor."

[REDACTED] have been revised at the direction of the Deputy Director of Central Intelligence. These regulations are concerned with acceptance of gifts by Agency employees from individuals representing, directly or indirectly, foreign governments and from individuals having some relationship with the Agency other than employment. The prohibition of gifts by employees to superiors was not included in the revised regulations inasmuch as they are primarily concerned with gifts from outsiders. It is, of course, contrary to law for an employee to make a gift to a superior or for a superior to accept or solicit such a gift. This is one of the many matters which it is not considered necessary to put into regulatory form. There are many other provisions of law which could be put in our regulations but, because these provisions of law are either well known or rarely pertinent to Agency employees or Agency problems, it is not considered necessary to make them a matter of regulation.

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"(2) The remedy proposed in para B be changed to provide that where a gift has been accepted in violation of the regulation it must be surrendered to the Agency rather than being returned to the donor. This change is consistent with Title 18 in dealing with bribes."

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The revised [] has been changed to delete the requirement that the gift be returned to the donor in recognition of the fact that this may be impossible or impractical in certain cases. Disposition of gifts which could not be refused is left for administrative determination on a case by case basis. It is probable that the most usual disposition will be surrender to the Agency as is required in the case of gifts from foreign governments or officials.

"(3) The dismissal provided for in para C be specifically described as an optional penalty with less severe penalties being used consistent with the seriousness of the offense, e.g., a letter of censure, reduction in grade, etc. This lesser penalty to apply only where a violation of Title 18, Sections 202 and 216 is involved."

The wording here has been retained in its present form. It is not mandatory but rather is intended to serve as notice that an employee may be dismissed for a violation of the regulation.

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"(4) The exemption provided for in para E be further extended to exempt those gifts with a value of \$10 or less on the principle of de minimis. Again this would apply only where no violation of a statute is involved. As it stands [] constitutes grounds for the dismissal of a case officer if he accepts as much as a cigarette or a cup of coffee from a contract agent or employee."

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Serious consideration was given to recommendations similar to this. As pointed out in our memorandum of 16 November 1955, the law does not distinguish between gifts of "minimum" value and those of substantial value. Because of this fact, it was decided by the Deputy Director of Central Intelligence that the prohibitions included in the regulations must be absolute. Paragraph E of [] which is carried over into the revised regulation, makes the only exception permissible under the law, that is, for gifts which would have been received regardless of the official relationship between the donor and donee.

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2. In accordance with the explanation set forth above, this Office cannot concur in the recommendations of the Chief, SR Division related to revision of Agency regulations concerning acceptance of gifts by employees from persons having some relationship to the Agency other than employment.

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Office of General Counsel

cc: SR Division

CCO:JMW:m

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